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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,228	09/26/2003	Michael Bergelson	P-10732.00	2878

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EXAMINER

GREENE, DANA D

ART UNIT PAPER NUMBER

3762

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,228

Applicant(s)

BERGELSON ET AL.

Examiner

Dana D. Greene

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2-09-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-17 and 22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Reinhold (US 4,531,527, hereinafter "Reinhold"). Reinhold is considered to disclose:

a method of transmitting a plurality of electrogram (EGM) signals associated with an implantable medical device (IMD) via a telephone line (see col. 2, ln. 45-61, Reinhold). The disclosed approach is considered to anticipate the claimed method of transmitting because both achieve real time data processing and transmitting of processed signals over a communication channel such as a telephone;

the method comprising the steps of receiving first and second EGM signals from the IMD (see col. 4, ln. 30-40, Reinhold). The disclosed monitor unit is used in a system that is considered to anticipate the claimed steps because both obtain EGM signals from the patient monitor unit;

frequency modulating the first and second EGM signals and transmitting the frequency modulated first and second EGM signals onto the telephone line (see col. 15, ln. 14-21, Reinhold). The disclosed operation of transmitting signals by telephone is considered to disclose the claimed method of transmitting the frequency modulated

signals because both methods use frequency modulated EGM data that is transmitted from the patient monitor to be displayed at a remote monitoring station in response to commands provided by a remote (DTMF) signal from a receiving station.

With reference to claims 2-5, Reinhold is considered to disclose a method of selectively transmitting the frequency modulated sense signals onto the telephone line (see col. 15, ln. 15-20, Reinhold). The disclosed method of producing the frequency modulated signal is considered to disclose the claimed method because both make use of telephone lines for transmitting.

Referring to claims 6-8, Reinhold is considered to disclose the method of receiving one or more sense signals and one or more stimulus signals, each sense signal representative of the sensed physiological activity (see col. 20, ln. 45-65, Reinhold).

Claim 9 stands rejected under 35 U.S.C. §102(b) as being anticipated by Reinhold. Reinhold is considered to disclose:

an implant monitor for monitoring an implantable medical device (IMD) (see abstract Reinhold). The claimed cardiac monitoring system is considered to anticipate the claimed implant monitor because both transmit a plurality of electrogram signals associated with an implantable medical device via a telephone line;

an RF receiver adapted to receive an RF signal transmitted from the IMD, the RF signal modulated with at least first and second electrogram (EGM) data, the RF receiver configured to demodulate the first and second EGM data from the received RF signal; a frequency modulation circuit and an amplifier circuit coupled to receive the first and

second frequency modulated EGM data signals (see col. 20, ln. 51-68, Reinhold). The disclosed receiver is considered to anticipate the claimed device because both operate as a component of receiver decoder.

Referring to claims 10-13, Reinhold is considered to disclose a marker encoder coupled to receive the demodulated physiological activity data (see col. 7, ln. 50-55, Reinhold). The disclosed microprocessor device is considered to anticipate the claimed device because both are capable of formatting the encoded channel digital values so that the sensed and stimulated physiological events are distinguished.

With reference to claims 14-17, Reinhold is considered to disclose the monitor as described above but further comprising the marker encoder coupled to receive the decoded physiological activity data and the decoded physiological stimulus configured to supply an encoded marker signal (see col. 15, ln. 15-27, Reinhold).

Referring to claim 22, Reinhold is considered to disclose an amplifier circuit adapted to couple to a telephone line, to thereby supply the composite frequency modulated signal thereto (see col. 15, ln. 14-26, Reinhold). The disclose unit is considered to anticipate the claimed device because both are capable of being adapted to couple to telephone lines.

3. Claims 23-25 stand rejected under 35 U.S.C. §102(b) as being anticipated by Ryan (US 5,350,411, hereinafter "Ryan"). Ryan is considered to disclose the method of frequency modulating digital data transmitted from an implantable medical device comprising the steps of sampling, initializing, incrementing, and generating a pulse (see col. 4, ln. 5-20, Ryan).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

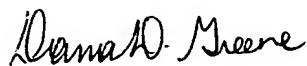
6. Claims 18-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Reinhold in view of Sholder (US 5,899,928, hereinafter "Sholder"). Reinhold is considered to disclose the claimed invention as discussed above, under the anticipatory rejection, except for the claimed oscillator. However, Sholder is considered to disclose the claimed oscillator circuit (see col. 19, ln. 25-30, Sholder). It would have been obvious to one of ordinary skill in the art to combine the teachings of Reinhold with the considered oscillator circuit taught in Sholder for the purpose of supplying command signals.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana D. Greene whose telephone number is (571) 272-7138. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-0276.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dana D. Greene



George Manuel
Primary Examiner